

The Expanding Role of the Juvenile Court in Determining Educational Outcomes for Foster Children

The juvenile court system has not been a good parent. More than 500,000 children nationwide are in foster care.¹ Approximately 20,000 of those children age out of the system every year.² A review of studies tracking the educational outcomes of foster children reveals that these children often have serious academic deficiencies. For example, depending on the research study, 26 to 40 percent of foster children repeat one or more grades, and 30 to 96 percent are below grade level in reading or math.³ High school graduation rates vary between 20 and 63 percent.⁴ By contrast, 84 percent of children in the general population graduate from high school.⁵ Earning a high school diploma makes a real, long-term difference in the lives of disadvantaged children; without it, they leave care poorly equipped to cope with the challenges they will face as young adults living on their own.⁶

Former foster children have expressed dissatisfaction with the educational services they received while in the system. For example, Roberta A., who attended nine different schools while in foster care, remembers being in honors classes before entering the system but ending up with assigned worksheets and busywork below her educational level while attending an alternative education program. Iisha B., who lived in a group home, says she was a 10th grader doing 4th-grade level work. Jeff F., who also lived in a group home, wanted to be a biologist but says he did not get the upper-level science classes he needed. Jennifer M., a former foster youth who had more than 20 placements, says she loved math but believes that her skill level dropped the longer she stayed in the system.⁷

THE CURRENT SYSTEM

Historically, judges, advocates, and placing agencies have paid little attention to the educational services that children in their caseloads receive.⁸ Training on how to advocate in the educational system on behalf of foster children has been virtually nonexistent for social workers, probation officers, and substitute care providers, such as group homes and foster parents.⁹ Few requirements are placed on substitute care providers to ensure proper educational involvement and support for children in their care. And though attorneys

ANA ESPAÑA

*Dependency Section, San Diego County
Department of the Public Defender*

TRACY FRIED, M.S.W.

*Foster Youth Services, San Diego County
Office of Education*

Children in foster care often face a cadre of challenges that hinder their ability to succeed academically. This article reviews the literature on educational outcomes for foster children and discusses those challenges, arguing that shortcomings in training, advocacy by the courts and related institutions, and systemwide coordination impede educational achievement. The article also reviews new legislative initiatives and the expanding role of the juvenile courts in matters affecting the education of foster children. Using San Diego County as an illustration, it concludes that greater collaboration among the courts, schools, placing agencies, and care providers will help improve educational outcomes for foster children. ■

representing children may become experts in juvenile court practice, they are often unfamiliar with the protections afforded to children under education laws, such as those supporting school stability or special education.¹⁰ This lack of knowledge is significant in that the educational experiences of most children in foster care are negatively affected by placement changes, and anywhere between 30 and 41 percent of children in foster care receive some sort of special educational services.¹¹

The complete consequences of neglecting the educational needs of foster children are not precisely known because little data in this area are collected or maintained by child welfare systems.¹² As a result, the mandated health and education passport¹³ for children in care generally contains little, if any, educational information.¹⁴

When asked why more attention is not placed on education, child welfare professionals generally respond, "Because education is the school's job."¹⁵ With social workers and advocates focused primarily on family reunification and permanency planning, the educational progress of foster children has simply not received adequate attention.

Multiple changes in placement and the lack of advocacy on behalf of these children take a toll on their chances for academic success. Two case scenarios illustrate some of the obstacles that directly affect the educational progress of foster children:

- Ten-year-old Mary G. was living in a foster home and enrolled in the local public school, where she was assessed for special educational services. It was determined that she qualified for adaptive physical education, resource help, and speech therapy; an Individualized Education Program (IEP)¹⁶ outlining these services was developed for her. Her disabling condition was listed as "learning handicapped." No behavior problems were indicated in the classroom. Two months later, Mary was moved to a group home in a different school district ostensibly because of behavior problems in the foster home. A new IEP was immediately developed, and she was placed in the group home's on-site school.

No services were included. Her disabling condition was also changed to "emotionally disturbed." It was later learned that her prior educational information did not transfer with her, and that the surrogate parent who consented to the reassessment and signed Mary's new IEP had never met her, had never spoken to anyone about her, and had not attended her IEP meeting.

- Seventeen-year-old Ryan D. experienced multiple changes in placement while in foster care. He had attended more than six different high schools. While in his last group home, Ryan was told that he had earned only 12 credits toward graduation, yet 44 were required. Within months he would turn 18 and be removed from his group home. Ryan's behavior in the group home was also problematic. He felt depressed, angry, and hopeless about his future.

EFFECTS OF MULTIPLE PLACEMENT CHANGES ON EDUCATIONAL SUCCESS

Changes in placement that result in multiple school transfers hinder the ability of foster children to succeed academically. In a real way, these children fall through the cracks. When school changes occur, education records do not always transfer in a complete or timely manner; meanwhile the child stays out of school for days or weeks at a time or is placed in inappropriate classes while waiting for the school to receive the records. Sometimes a child will move so often that his or her records are lost or misplaced, causing the child to lose credits or to repeat classes. In some cases, no one formally withdraws the child from the previous school, with the result that the child appears truant and his or her grades are lowered. Some of these children have even been referred to school attendance review boards.¹⁷

In one study, 42 percent of the foster children surveyed indicated that they had experienced delays in school enrollment while in foster care. The delay was often attributed to lost or misplaced school and immunization records. Of those children, more than half

said the delay resulted in nonattendance at school for anywhere from two to four weeks.¹⁸ Another study, administered over a 10-week period, showed that 3 out of 31 group-home children had waited more than 20 days before entering school, and that 10 attended no school at all during the full 10-week study period.¹⁹

School mobility, even without the complications of out-of-home placement, is negatively related to school difficulties. One study shows that, by 4th grade, mobile students are an average of four months behind their classmates on standardized tests and, by 6th grade, are as much as one year behind.²⁰ In another study, students who had changed schools at least six times between 1st and 12th grades were 35 percent more likely to fail a grade than students who didn't move or had moved just a few times during the period.²¹ Multiple changes in school placement during high school can significantly lower the student's chances for graduation.²²

Multiple school transfers can affect foster children's ability to access services available to other children. For example, children who undergo transfers often are not evaluated for or do not access special school services such as 504 plans,²³ special education programs, or gifted and talented programs. By the time teachers begin to identify and respond to specific academic deficits or strengths, the child may have moved to a different school.²⁴

Multiple changes in school placements are also frustrating for children who want to participate in extracurricular school activities. For example, many youth want to play on high school sports teams but end up missing either all or part of the season because of a new placement. Foster children complain about missing school friends and teachers, as well as the difficulty of constantly adjusting to new teachers, classes, and friends.²⁵ Sadly, children in foster care are not often given the opportunity to fulfill their dreams or have a sense of normalcy in their lives.

LACK OF ADVOCACY ON BEHALF OF FOSTER CHILDREN

Inattention to the educational needs of foster children, coupled with a subsequent failure in advocacy

by those involved in their lives, has fostered myriad problems for these children.

As discussed above, the available research reveals that far too many foster children achieve below grade level in reading or math and fail to graduate from high school. It may be true that a child's experience before entering foster care is partly to blame for these educational concerns.²⁶ But this condition also persists because social workers, care providers, attorneys, and other advocates have paid inadequate attention to the child's educational needs and often lack the training to advocate effectively. While a child is in foster care, often no one pays consistent attention to the child's educational development. Children placed in alternative education programs either have no one representing their educational interests or are represented by district-appointed surrogate parents who fail even to meet them or to review their educational records before making decisions for them. Finally, a child's social worker or attorney frequently fails to attend IEP team meetings or other important school conferences.

Children placed in large group homes with associated or on-site schools are often required to attend those schools despite previous successes in regular public school placements.²⁷ These alternative education programs tend to be nonpublic²⁸ or juvenile court schools.²⁹ Youth who attend these types of programs miss out on regular high school experiences and often cannot access the continuum of comprehensive educational services available at the local school campus. Though many group-home children require alternative school settings, many others placed there do not.

Furthermore, a nonpublic school placement is among the most restrictive of educational programs. It is designed to serve children who cannot function in a regular public school environment. Nonpublic schools tend to be separated from the regular public school campus and located either on the grounds of the group home or nearby. Placement in these programs is normally the result of an IEP team decision. But many children who are not eligible for special education services (and thus without IEPs)

or for whom eligibility is debatable end up placed in nonpublic schools.³⁰ In addition, some children who have been found appropriately eligible for special education services are inappropriately placed in nonpublic schools, which may be more restrictive than necessary. Few children enrolled in associated or on-site schools are integrated into the public school for any part of the day.³¹

Few advocates raise concern about the appropriateness of an educational placement. The lack of training and advocacy skills among those involved in the lives of these children compounds the problem of inattention, with the effect that advocacy for children in the system is inadequate overall.

Two complementary changes can markedly improve the situation in California. First, legislative and other initiatives have already taken place and are beginning to change the educational landscape for foster children. Second, some jurisdictions have already seen improved advocacy and interagency coordination among the courts, social services, probation, substitute care providers, and schools. The concluding sections of this article highlight these developments as they occurred in San Diego County and show that they are vital to the provision of appropriate educational services for foster children.

RECENT PUBLIC AND PRIVATE INITIATIVES

Federal, state, and private initiatives begun in the last decade focus on improving educational outcomes for foster children.

ADOPTION AND SAFE FAMILIES ACT

The federal Adoption and Safe Families Act regulations, which took effect March 2000, require states to undergo child and family service reviews. These federal reviews consider seven general outcomes related to child safety, permanency, and well-being in determining a state's overall performance in child protection cases. One outcome to be measured is whether children receive appropriate services to meet their educational needs. States risk losing federal

funds if they are not achieving these outcomes, including meeting the educational needs of children in care.³²

FAMILY TO FAMILY INITIATIVE

The *Family to Family* initiative is rapidly expanding to cities across the country. Designed in 1992 by the Annie E. Casey Foundation and child welfare leaders, the initiative promotes significant reform by urging the development of a family-centered, neighborhood-based foster-care system. Cities participating in the *Family to Family* initiative have committed themselves to the following outcomes:

- fewer children in institutional and congregate care
- shift of resources from congregate and institutional care to family foster care and family-centered services across all child- and family-serving systems
- shortened stays in out-of-home placement
- more planned reunifications
- fewer reentries into care
- fewer placement moves experienced by children in care
- more siblings placed together in the number of children placed away from their own families³³

Success in any of these outcomes should help reduce the mobility of foster-care children among schools and have a corresponding positive effect on educational achievement.

McKINNEY-VENTO HOMELESS ASSISTANCE ACT

The 2001 reauthorization of the McKinney-Vento Act, part of the federal legislation known as "No Child Left Behind," provides significant protections for homeless children and youth.³⁴ One statutory definition of "homeless children and youths" includes those who are "living in emergency or transitional shelters" or "awaiting foster care placement."³⁵ Under this definition, foster children who are initially detained or have been moved and are awaiting

a permanent placement should receive protections under the act. These protections require local school districts to do the following:

- To the extent feasible, permit the child to attend his or her school of origin (school where last enrolled or school attended when permanently housed) until the end of any academic year in which the child moves into permanent housing; or permit the child to enroll in any public school that other students living in the same attendance area are eligible to attend. School placement decisions must be made on the basis of the child's "best interest."³⁶
- Provide or arrange for transportation to and from the school of origin when the school is within the district. When the child moves to a different district, the act requires the new district and the district of origin to agree on a method for sharing transportation, responsibility, and costs.³⁷
- Designate an appropriate staff person as a liaison to assist homeless children. Among other things, the liaison must ensure that homeless students are enrolled in, and have full and equal opportunity to succeed in, schools in the district.³⁸
- Immediately enroll the homeless child. This is required even if the child is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.³⁹
- Institute a process to promptly resolve disputes. Pending resolution of a dispute about school placement, the district must immediately enroll the child in his or her school of choice.⁴⁰

Recent nonregulatory guidance from the U.S. Department of Education confirms that children who are "awaiting foster care placement" are considered homeless and eligible for McKinney-Vento services. Children who are already in foster care, on the other hand, are not considered homeless under the act. The guidance suggests that school district liaisons confer and coordinate with local public social

service agency providers in determining how best to assist homeless children and youth who are awaiting foster-care placement.⁴¹

CALIFORNIA INITIATIVES

In California, the Legislature contracted with the American Institutes for Research (AIR) for three research reports—issued in 1998,⁴² 2001,⁴³ and 2003⁴⁴—that focused on nonpublic school placements and funding and the policies and procedures affecting the educational placement of group-home children. These reports led to compelling recommendations to the Legislature and state agencies on improving educational outcomes for foster children. Among other things, AIR has recommended that California

- improve its interagency coordination across local education, social services, mental health, and probation agencies as this coordination pertains to the provision of appropriate education services for foster children;⁴⁵
- develop an independent oversight board at the state and county level, focusing on ensuring that the work of those agencies providing education services are meeting the needs of children in foster care;⁴⁶
- develop a statewide data system that can be easily and quickly accessed by group-home and education authorities across the state;⁴⁷
- expand the California Foster Care Ombudsman Office to include educational concerns under its purview;⁴⁸ and
- clearly define roles and unambiguously assign ultimate responsibility for the education of children in foster care to the Department of Education and its county and local agencies.⁴⁹

Some of these recommendations have resulted in legislative change (as described later), but others remain to be addressed.

In addition, the 1998 California Budget Act expanded the Foster Youth Services program (FYS),

an education-based program that provides support to enhance the success of group-home children in school.⁵⁰ The local county office of education or school district operates FYS. One of the core elements of FYS is interagency collaboration. FYS providers work with social workers, probation officers, group-home staff, school staff, and community service agencies to train staff, as well as to influence and support school success. Currently, 53 California counties have FYS coordinators, and the goal is to expand this program to all 58 counties.

Effective January 1, 2004, the Governor of California approved Assembly Bill 490,⁵¹ a far-reaching bill that requires child welfare, probation, schools, and the juvenile courts to work together to improve educational outcomes for children in care. Among other things, the bill mandates the following:

- All pupils in foster care must have a meaningful opportunity to meet the challenging state pupil achievement standards to which all pupils are held.
- County placing agencies must promote educational stability by considering in placement decisions the child's school attendance area.
- A foster child must be permitted to remain in his or her school of origin for the duration of the school year when a placement changes if that is in the child's best interest.
- A comprehensive public school must be considered the first school placement option for foster children.
- Local educational agencies must designate a staff person as a foster-care education liaison to ensure proper placement, transfer, and enrollment in school for foster children.
- The county social worker and probation officer must notify the local educational agency when the child is leaving the school.
- A school district must deliver the child's education information and records to the next educational placement within two days of receiving a transfer request from a county placing agency.

- A foster child must be immediately enrolled in school even if all the typically required school records, immunizations, or school uniforms are not available.

- A foster child not must be penalized for absences resulting from placement changes, court appearances, or related court-ordered activities.

If done effectively, implementation of this bill will have a powerful impact on enhancing the educational outcomes for children in the foster-care system.

The Expanding Role of the Juvenile Court

The California juvenile courts have assumed a greater role in ensuring that the educational needs of foster children are addressed. Effective January 1, 2001, section 24 of the California Standards of Judicial Administration acquired new subsections (g) and (h), which provide guidance to juvenile courts on the educational rights of children. Among other things, they require the juvenile court judge to

- (1) [t]ake responsibility, with the other juvenile court participants at every stage of the child's case, to ensure that the child's educational needs are met... [;]
- (2) [p]rovide oversight of the... agencies to ensure that a child's educational rights are investigated, reported, and monitored... [;]
- (3) [r]equire that court reports, case plans, assessments, and permanency plans... address a child's educational entitlements and how those entitlements are being satisfied, and contain information to assist the court in deciding whether the right of the parent or guardian to make educational decisions for the child should be limited....⁵²

In addition, the Judicial Council of California has adopted rules and forms concerning the education of children in foster care.⁵³ Some juvenile courts have assembled multidisciplinary task forces to focus attention on ways their counties can improve educational outcomes.⁵⁴

Since January 1, 2003, the juvenile courts have been required to appoint a "responsible person" who has the legal authority to make educational decisions for a child when the court has removed this authority from the parents.⁵⁵ Similarly, social service and

probation agencies are required to consider whether or not to limit the authority of the parent or guardian to make education decisions for the child and, if so, whether there is a responsible person available to assume this role.⁵⁶ In most cases, the person to be appointed will likely be the foster parent or relative caretaker. When those persons are not available, juvenile courts should look to appropriate noncustodial relatives, nonrelative extended family members, mentors, and Court Appointed Special Advocates (CASAs). In cases where the court cannot identify a responsible person to advocate for a child and the child may be eligible for special educational services or already has an IEP, the court must then refer the child to the local school district for appointment of a surrogate parent. Recent amendments to California law governing the appointment of district surrogates now require them to meet the child and review the child's educational records.⁵⁷ The Judicial Council of California has promulgated a form to assist the courts with the implementation of these laws.⁵⁸

Developments in San Diego County

Systemic reform begins with the vision and strong support of the juvenile court presiding judge. San Diego County has been fortunate to have not only strong support from the bench but also a powerful working relationship with schools, social services, and probation, as well as with other public and private agencies. This close collaboration has significantly enhanced educational services and outcomes for foster children in this county.

In 1999, the supervising dependency court judge, along with a group of representatives from the children's law office, social services, and schools, raised concern about the education that 80 group-home children were receiving from their on-site nonpublic school. There was concern that the nonpublic school lacked sufficient curriculum, educational materials, and supplies. Textbooks were outdated, computers were old and in disrepair, and there was little in the way of educational software. Some believed the school lacked qualified teachers and aides; there was a reported lack of supervision as well as alleged

inappropriate discipline. Kids were bored, unchallenged, and regularly disruptive in the classroom. For two years, this group worked to improve the nonpublic school. Finally succumbing to pressure, the school closed its doors. With only eight weeks' notice, the local school district took over. School staff painted the classrooms; purchased new furniture, textbooks, computers, and supplies; enhanced the curriculum; recruited skilled, motivated teachers; and opened Alta Vista Academy.

Since that time, students have progressed academically and behaviorally. Several are now attending the local comprehensive public school campus. Many others are moving to lower levels of care, such as foster homes, or are being returned to their parents. The group home reports that the children's behavior has improved significantly. And, finally, district-wide student test results in writing, reading, and math are among the top in the district. Last year the school received the "Golden Bell Award" for excellence from the California School Board Association (CSBA). This annual award recognizes outstanding educational programs around the state. The success of Alta Vista Academy has motivated other school programs around the county to improve their efforts on behalf of foster children.

The presiding judge of the San Diego County juvenile court, along with members of the county's board of supervisors, has also created the San Pasqual Academy, a state-of-the-art residential education program serving foster youth aged 14 to 18. Only youth seeking placement in the academy are considered, and successful candidates are selected after a careful review by the residential provider, social services, and the school. Most of the youth selected are in a plan of long-term foster care in which reunification with family members is no longer an option. Younger siblings of enrolled youth are also carefully considered. The students live in cottages staffed by house parents. The academy's high school has developed an exceptional education program that offers a full array of academic curricula. If the academy does not offer a class requested or needed by a youth, he or she attends the local community college. As part

of the school experience, students are encouraged to participate and become involved in extracurricular activities, such as intramural and interscholastic athletics, student government, cheerleading, drama, and school clubs. All seniors are required to complete a senior portfolio.⁵⁹ Through the San Diego Workforce Partnership,⁶⁰ students are given opportunities to develop work experience both on and off campus. In the academy's third year of operation, over 95 percent of its departing seniors received a high school diploma.

RECOMMENDATIONS FOR REFORM: LESSONS FROM SAN DIEGO COUNTY

Over the past five years the San Diego County juvenile court, working closely with its partners, spearheaded a number of efforts aimed at improving educational outcomes for foster children. Below are examples of what the court has done, or is doing, to encourage and develop collaboration among all those who work to improve the lives of these children. They are offered here to policymakers as recommendations for reform.

1. **Under the leadership of the juvenile court, create a multidisciplinary education task force to focus exclusively on enhancing education outcomes for foster children in your county.** Involve leaders from your local FYS program (see below), schools, social services, probation, children's attorneys, CASAs, and substitute care providers, as well as current and former foster children, in this effort. As part of the work of the task force, members should visit local educational programs that serve foster children, conduct focus groups with children in those programs, and talk with care providers seeking their views on how to support foster children in education. In San Diego County, all work in the area of education reform is either initiated by or reported to the juvenile court education task force. Making these efforts will help inform task force members on what needs to be done, and what is being done, to enhance education outcomes for foster children in your county.
2. **Provide systemwide training on education laws and outcomes for foster children, as well as the roles and responsibilities of juvenile court judges and attorneys, placing agencies, substitute care providers, and schools.** Early on in the San Diego County court's efforts, the local Foster Youth Services program hosted a forum, inviting stakeholders to come together to address the educational needs of foster children. The presiding juvenile court judge, county school superintendent, and a member of the local board of supervisors hosted the forum. Over the last few years training has been continually provided across all disciplines to help ensure that system participants understand education laws and the importance of making education a priority. Last year, the presiding judge closed the dependency courts for an afternoon and required attorneys, judges, and others to participate in training related to the education of foster children.
3. **Work closely with your local FYS program.** The goal of FYS is to improve policies and practices affecting the education of children in group-home care. With the support and involvement of its advisory board, FYS staff has developed an educational database that currently contains more than 8,500 educational records of foster children.⁶¹ The database is Web based and accessible to social services, probation, juvenile courts, attorneys, and substitute care providers. It receives weekly downloads from CWS/CMS to include health, education, and placement information. Unlike the CWS/CMS system, which is closed, the database allows the multiple agencies with responsibilities to specific children secured access to relevant student information. It has also been a mechanism by which the juvenile court informs agencies as to who holds education rights for children in its care. FYS is also acting as an educational liaison for group-home children by communicating with, and linking together, group-home providers, schools, social services, and probation. To support these efforts, a juvenile court order allows these agencies to share educational information with each other.

4. Develop county and court protocols that help ameliorate the effects of changes in school placements. For example, in San Diego County, FYS staff and the advisory board developed an inter-agency agreement between schools, social services, probation, and group homes. Based on current law, the interagency agreement defines the role and responsibilities of each of these agencies. The agreement specifically details how educational information should be obtained and transferred and how schools should be notified of new students placed in group-home care. These protocols help each agency understand not only its own specific duties and tasks but also the duties and tasks of its agency partners. This results in a more comprehensive, efficient, and coordinated effort on behalf of children.

5. Using the law as your framework, work with placing agencies to develop internal policies and procedures that clearly delineate the responsibilities and duties of workers. At a minimum, these policies and procedures should

- a. inform workers of the educational rights of foster children, as well as the workers' responsibility, in appropriate circumstances, to determine whether the educational rights of parents or guardians should be limited and, if so, who should be appointed to assume those rights;
- b. promote school stability whenever possible;
- c. require a complete health and education summary for every child, as well as sufficient education information in each court report;
- d. if a transfer should occur, require that the child be checked out of school and ensure that the old school transfer education records to the new school in a timely manner; and
- e. urge workers to become more involved in advocating on behalf of children in educational settings.

Last year, the San Diego County Health and Human Services Agency (HHSA) distributed a special notice to all its workers, informing them of

laws pertaining to the education of foster children as well as of new, required policies and procedures that support the educational success of children in their caseloads. For example, FYS and HHSA have developed protocols and forms to assist with the proper withdrawal of children from school to prevent the problem of lowered grades when schools are not informed that a child has changed a school placement. An HHSA manager is now requiring that all new applications of children being considered for group-home placement include complete health and education information and that all group-home providers help children with homework and support academic success. And, more recently, HHSA has assigned internal education liaisons in all six regions⁶² of San Diego County to work closely with FYS liaisons and foster-youth school district liaisons so that all liaisons become more informed of school services in their areas and are better able to provide support to social workers.

These activities, along with the development of educational programs such as the San Pasqual and Alta Vista academies, have resulted in better outcomes for San Diego County's foster youth. Indeed, the high school completion rate for foster youth in San Diego County has increased from a low 51 percent in 1998 to nearly 75 percent in 2004.⁶³

Because of the innovations in San Diego County, there are happy endings to the two scenarios described earlier in this article. Mary's attorney intervened and successfully advocated for the revision of her IEP to include appropriate services, including a change from her previous designation as emotionally disturbed, that more accurately reflect her neurological deficits. She was also returned to public school, where she has succeeded academically. Concerned for Ryan's situation, the educational liaison for the local FYS program searched for every bit of high school seat time she could find in his school records and ultimately identified 24 credits. Ryan was immediately enrolled in adult education courses, which he took simultaneously while attending his last high school. He graduated in an emotional ceremony in front of his supporters and peers.

The education of foster children is finally beginning to receive the attention it has long deserved. San Diego County's experience shows the progress possible when juvenile courts take a leadership role in bringing stakeholders together to improve educational outcomes. Visionary and capable leadership, coupled with highly functional collaborative teams, can ensure that all children in foster care have the opportunity to develop the skills necessary to meet the state academic achievement standards to which all students are held. The California court system can become better parents. Its children deserve no less.

NOTES

1. Children's Bureau, U.S. Dep't of Health & Human Servs., National Adoption and Foster Care Statistics, at www.acf.hhs.gov/programs/cb/dis/afcars/publications/afcars.htm.
2. CHILDREN'S BUREAU, U.S. DEP'T OF HEALTH & HUMAN SERVS., THE AFCARS REPORT (2003), at www.acf.hhs.gov/programs/cb/publications/afcars/report8.pdf.
3. ELISABETH YU ET AL., IMPROVING EDUCATIONAL OUTCOMES FOR YOUTH IN CARE: A NATIONAL COLLABORATION, at vii (Child Welfare League of Am. Press 2002).
4. *Id.*; see also MASON BURLEY & MINA HALPERN, EDUCATIONAL ATTAINMENT OF FOSTER YOUTH: ACHIEVEMENT AND GRADUATION OUTCOMES FOR YOUTH IN STATE CARE 19 (Wash. State Inst. for Pub. Policy 2001), at www.wsipp.wa.gov/rptfiles/FCEDReport.pdf; JANIS AVERY, EDUCATION AND CHILDREN IN FOSTER CARE: FUTURE SUCCESS OR FAILURE? (New Horizons for Learning 2001), at www.newhorizons.org/spneeds/inclusion/collaboration/avery.htm.
5. ERIC C. NEWBURGER & ANDREA E. CURRY, EDUCATIONAL ATTAINMENT IN THE UNITED STATES (UPDATE) (U.S. Census Bureau, Mar. 2000), www.census.gov/prod/2000pubs/p20-536.pdf.
6. See THOMAS PARRISH ET AL., AM. INSTS. FOR RESEARCH, EDUCATION OF FOSTER GROUP HOME CHILDREN, WHOSE RESPONSIBILITY IS IT?: STUDY OF THE EDUCATIONAL PLACEMENT OF CHILDREN RESIDING IN GROUP HOMES (FINAL REPORT) [hereinafter GROUP HOME CHILDREN] 1-4 (2001) (submitted to Cal. Dep't of Educ. 2001), available at www.csef-air.org/publications/related/LCI_final.pdf.
7. Mary Curran-Downey, *How It Looks From Inside Foster Care*, SAN DIEGO UNION-TRIBUNE, Feb. 29, 2000, at B-1.
8. GROUP HOME CHILDREN, *supra* note 6, at 1-1; BURLEY & HALPERN, *supra* note 4, at 1.
9. YU ET AL., *supra* note 3, at 18.
10. See McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11431-11435 (2000 & Supp. 2004) (as amended by the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, Pub. L. No. 107-110, §§ 1031-1034, 115 Stat. 1989 (2002)); Individuals With Disabilities Education Act, 20 U.S.C. §§ 1400-1481 (2000 & Supp. 2004); Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794 (2000); Act of Oct 12, 2003, ch. 862, 2003 Cal. Stat. {____}, available at www.leginfo.ca.gov/pub/03-04/bill/asm/ab_0451-0500/ab_490_bill_20031012_chaptered.pdf.
11. YU ET AL., *supra* note 3, at 5.
12. For example, the mandatory California case management system (CWS/CMS) used by social workers has very few data fields requiring educational information, and those fields are often not completed.
13. All children placed in foster care in California must have a case plan that includes a summary of the health and education information or records of that child. See CAL. WELF. & INST. CODE § 16010 (West 2004).
14. GROUP HOME CHILDREN, *supra* note 6, at 1-3, 3-1, 3-4.
15. *Id.* at 1-7.
16. Under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1481 (2000 & Supp. 2004), every state that receives federal education funds is required to prepare an individualized educational program (IEP) for each student who qualifies for special education. The IEP is the central tool used by public schools to ensure that their disabled students receive a free appropriate public education (FAPE). The IEP reports on the child's current education performance and establishes annual and short-term objectives for improving that performance. It also describes any specially designed instruction and services that will enable the child to meet those objectives. *Id.* at § 1414(d). The school district is required to provide the services necessary to enable the child to meet his or her educational objectives. *Id.*
17. J.K. Slater & C.T. Smith, Cal. Dep't of Educ., *Meeting the Educational Needs of Foster Children in California: Strategies for Improving Academic Success* (1993), 27 HASTINGS CONST. L.Q. 4 (2000) (giving figures from a survey of school mobility among California foster-care youth). For the statutory basis of school attendance review boards, see CAL. EDUC. CODE §§ 48320-48324 (West 2004).
18. ADVOCATES FOR CHILDREN OF N.Y., INC., EDUCATIONAL NEGLECT: THE DELIVERY OF EDUCATIONAL

SERVICES TO CHILDREN IN NEW YORK CITY'S FOSTER CARE SYSTEM 36-37 (2000), www.advocatesforchildren.org/pubs/FCrep7-11.doc.

19. GROUP HOME CHILDREN, *supra* note 6, at 1-7.

20. Linda Jacobson, *Moving Targets*, EDUC. WEEK, Apr. 4, 2001, at 32, www.edweek.org/ew/articles/2001/04/04/29mobility.h20.html.

21. David Wood & Neal Halfon, *Impact of Family Relocation on Children's Growth, Development, School Function, and Behavior*, 270 JAMA 1334, 1338 (1993).

22. Russell W. Rumberger & Katherine A. Larson, *Student Mobility and the Increased Risk of High School Dropout*, 107 AM. J. EDUC. 1 (1998); Kathleen McNaught, *Education Advocacy in Child Welfare Cases: Key Issues and Roles*, 21 ABA CHILD L. PRAC. 129, 134 (Nov. 2002); Jacobson, *supra* note 20, at 32-34.

23. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (2000), is a civil rights statute protecting individuals with disabilities from discrimination in programs and activities that receive federal funds. A 504 plan is crafted for a student with substantial mental or physical impairments that limit one or more major life activities. The plan outlines special accommodations to the student's educational program and is designed according to individual need.

24. YU ET AL., *supra* note 3, at 5, 13; CTR. WITHOUT WALLS, *THE EDUCATIONAL NEEDS OF CHILDREN IN FOSTER CARE: THE NEED FOR SYSTEM REFORM* (1998), www.advocatesforchildren.org/pubs/foster.doc.

25. YU ET AL., *supra* note 3, at 13; Jacobson, *supra* note 20, at 32-34; ADVOCATES FOR CHILDREN OF N.Y., INC., *supra* note 18, at 42-43.

26. Jacobson, *supra* note 20, at 32-34.

27. A group home may not require placement of a youth in a nonpublic school that is owned and operated by that group home. CAL. EDUC. CODE § 56366.9 (West 2004).

28. A nonpublic school (NPS) is a private, alternative special education school available to a local educational agency and parents. An NPS contracts with the local education agency to provide programs for youth who generally cannot function in a regular public school. Youth are placed in these programs as a result of an IEP team decision. See CAL. EDUC. CODE §§ 56034, 56366.

29. A juvenile court school is a public alternative school that serves youth in juvenile halls, juvenile ranches, group

homes, and other institutional settings. See CAL. EDUC. CODE §§ 48645-48645.6.

30. GROUP HOME CHILDREN, *supra* note 6, at 3-26.

31. One explanation for the inappropriate placement of youth in nonpublic schools may be that, until recently, the state fully reimbursed local school districts their educational costs for group-home youth who attend nonpublic schools but offered little additional aid for public school placement of these same youth. In part because of this funding system, school administrators often supported placement in a nonpublic school. Group-home providers also tended to prefer placement in the associated or on-site school, particularly when the provider owned or operated that school. Fortunately, these funding provisions have been modified to eliminate any fiscal incentive to place youth in nonpublic schools. See Act of Aug. 11, 2004, ch. 216, 2004 Cal. Stat. {____}, available at www.leginfo.ca.gov/pub/03-04/bill/sen/sb_1101-1150/sb_1108_bill_20040811_chaptered.pdf.

Although there are many excellent alternative education programs in California, concerns do exist regarding the quality of education some of them provide. One reason for concern is that the state's certification and monitoring processes for nonpublic schools have tended to focus on a program's *facility* and *access* to required curriculum standards but did not generally consider factors concerning the *quality* of the program. Youth complain that some alternative education programs are deficient in educational resources and curriculum. They also complain about the quality of teachers and contend that teachers fail to prepare them for higher education. On September 30, 2004, California Governor Schwarzenegger approved the Act of Sept. 30, 2004, ch. 914, 2004 Cal. Stat. {____}, available at www.leginfo.ca.gov/pub/03-04/bill/asm/ab_1851-1900/ab_1858_bill_20040930_chaptered.pdf. Through its mandates, this act will significantly increase the monitoring and accountability of nonpublic school education by state and local educational agencies.

32. 45 C.F.R. §§ 1355.31-1355.37 (2003); McNaught, *supra* note 22, at 130.

33. Annie E. Casey Found., *Family to Family: Tools for Rebuilding Foster Care*, available at www.aecf.org/initiatives/familytofamily/overview.htm.

34. McKinney-Vento Homeless Education Assistance Improvements Act of 2001, Pub. L. No. 107-110, § 1032, 115 Stat. 1425, 1989 (2002) (codified at 42 U.S.C. §§ 11431-11435 (2000 & Supp. 2004)).

- NOTES 35. *Id.* § 11434a(2). Other definitions of *homeless children and youths* in section 11434a(2) include
- (A) ... individuals who lack a fixed, regular, and adequate nighttime residence ...; and
 - (B) ...
 - (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative accommodations; [or] are abandoned in hospitals ...;
 - (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings ...;
 - (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 - (iv) migratory children ... who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).
36. *Id.* § 11432(g)(3).
37. *Id.* § 11432(g)(1)(J)(iii).
38. *Id.* § 11432(g)(6).
39. *Id.* § 11432(g)(3)(C)(i).
40. *Id.* § 11432(g)(3)(E).
41. The full text of the guidance can be obtained on the Department of Education Web site at www.ed.gov/policy/elsec/guid/list.jhtml.
42. THOMAS PARRISH ET AL., SPECIAL EDUCATION: NON-PUBLIC SCHOOL AND NONPUBLIC AGENCY STUDY (Am. Insts. for Research 1998).
43. GROUP HOME CHILDREN, *supra* note 6.
44. THOMAS PARRISH ET AL., POLICIES, PROCEDURES, AND PRACTICES AFFECTING THE EDUCATION OF CHILDREN RESIDING IN GROUP HOMES (FINAL REPORT) (Am. Insts. for Research 2003) [hereinafter POLICIES, PROCEDURES, AND PRACTICES].
45. GROUP HOME CHILDREN, *supra* note 6, at 5-2.
46. POLICIES, PROCEDURES, AND PRACTICES, *supra* note 44, at VI-6.
47. GROUP HOME CHILDREN, *supra* note 6, at 5-2.
48. POLICIES, PROCEDURES, AND PRACTICES, *supra* note 44, at VI-5.
49. *Id.* at VI-7.
50. See CAL. EDUC. CODE §§ 42920–42925.
51. Act of Oct. 12, 2003, ch. 862, 2003 Cal. Stat. {____}, available at www.leginfo.ca.gov/pub/03-04/bill/asm/ab_0451-0500/ab_490_bill_20031012_chaptered.pdf.
52. CAL. STDS. JUD. ADMIN. § 24(h)(1)–(3).
53. CAL. R. CT. 1456(c), 1499; Judicial Council of Cal. Form JV-535 (*Order Limiting Parent's Right to Make Educational Decisions for the Child and Appointing Responsible Adult as Educational Representative—Juvenile*) (2004); Judicial Council of Cal. Form JV-536 (*Local Educational Agency Response to JV-535—Appointment of Surrogate Parent*) (2004). These rules and forms have been amended to reflect changes in the law.
54. For example, task forces have been formed in Los Angeles, Orange County, and San Diego.
55. CAL. WELF. & INST. CODE § 361 (West 2004).
56. *Id.* §§ 358.1, 366.1, 727.2.
57. CAL. GOV'T CODE § 7579.5 (West 2004).
58. Judicial Council of Cal. Form JV-535 (2004).
59. The senior portfolio includes an extensive written research paper. Students are also required to present their work orally.
60. Created under a Joint Powers Agreement by the City and County of San Diego, the San Diego Workforce Partnership coordinates job training and employment programs. At San Pasqual Academy, the Partnership links with Casey Family Programs, Access, Inc., Junior Achievement, and Creative Learning Systems to create a comprehensive work readiness program. For more information, see www.sandiegowork.com.
61. Approximately 8,000 youth are in the San Diego child dependency system. The information contained in the database also includes delinquency youth who are in foster care.
62. The San Diego Health and Human Services Agency has organized itself into six separate geographical regions; central, north central, north inland, north coastal, south, and east.
63. Jennifer Vigil, *Fostering New Lives*, SAN DIEGO UNION-TRIBUNE, Aug. 16, 2004, available at www.signonsandiego.com/uniontrib/20040816/news_1m16foster.html.